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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Policies and Rules Concerning  
Children's Television Programming

Revision of Programming Policies  
for Television Broadcast Stations

MM Docket No. 93-48

COMMENTS OF CBS INC.

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## SUMMARY

Less than three years ago, the Children's Television Act of 1990 was adopted. For the first time, that legislation enacted limits on the amount of commercial material which could appear in children's programs, and established a statutory requirement that each television station serve "the educational and informational needs of children through the licensee's

conclude that the objectives of the Act will not be achieved in the absence of additional regulatory steps by the Commission. CBS therefore opposes the adoption of processing guidelines as to the amount of educational and informational children's programming which the Commission will expect licensees to present for license renewal purposes.

Such quantitative standards would, in our view, be contrary to the express intent of Congress as set forth in the legislative history. In practice, processing guidelines would operate no differently than an absolute rule requiring the broadcast of specific amounts of educational and informational children's programming. The Commission has traditionally eschewed such regulation. Indeed, the adoption of such quantitative requirements for particular program categories may raise significant constitutional questions.

CBS also opposes the adoption of a scheduling guideline requiring all television stations to present weekday programming for children. Not only would such a requirement run directly counter to the licensee

discretion intended by Congress, but it would restrict competition and counterprogramming efforts among stations, and present particular difficulties for network affiliates.

Finally, CBS urges the Commission to refrain from adopting an excessively restrictive definition of the type of programming which may qualify as "educational" or "informational" -- a step we believe would be inconsistent with the flexibility Congress intended to provide broadcasters in meeting the Act's requirements, and inconsistent with the goal of increasing both the amount and variety of high quality children's programming.

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## INTRODUCTION

Less than three years ago, as a result of lengthy discussions between the Congress, broadcasters and other interested parties, the Children's Television Act was adopted. That legislation for the first time enacted limits on the amount of commercial material which could appear in children's programs, and established a statutory requirement that each television station serve "the educational and informational needs of children through

"quantification standards" as to the amount of educational and informational programming which a licensee would have to air in order to meet the Act's programming requirements. The legislative history also expressly reflects Congress' intent to afford broadcasters the widest possible discretion in determining the type of programming to present in response to those requirements.

While CBS does not contend that the programming objectives of the Children's Television Act have been perfectly accomplished in the two and a half years since its adoption, we do believe that the industry has made substantial efforts to comply. We are also convinced that the performance of television stations in this area will continue to improve over time. In this connection, we believe that the instant proceeding, as well as the children's television hearings recently held before the House Telecommunications Subcommittee, will serve a useful purpose by reminding licensees of the seriousness with which the Commission and the Congress take the requirements of the Act. This in turn should help to promote the development and production of more high quality educational and informational children's programming.

To this extent, the current inquiry can have a  
decidedly positive effect on the accomplishment of the  
Act's objectives. At the same time, however, we are

meet the Act's requirement of service to the child  
audience. We are confident that further improvements over

the current system will make additional regulatory

broadcasters should focus "on programming that has as its  
explicit purpose service to the educational and  
informational needs of children, with the implicit purpose  
of entertainment rather than the converse."5/

view that a licensee must present some qualifying standard-length programming in order to meet the Act's requirements. In this connection, we also concur that the insertion of a pro-social or educational message at the beginning or end of an entertainment program does not convert the entire broadcast into one meeting the educational and informational needs of children.<sup>7/</sup>

However, CBS opposes the adoption of quantitative processing guidelines to evaluate compliance with the Act. We are also concerned that the Notice's statements as to the definition of educational or informational programming might, if adopted as policy, be construed in a manner which would unduly limit licensee discretion in this area. We discuss these issues below.

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<sup>7/</sup> Notice at 5. Thus, for example, the CBS Television Network has refrained from citing TEENAGE MUTANT NINJA TURTLES in its Children's Programming Reports, but has included "Turtle Tips," a 30 second educational feature

I. The Commission Should Not Adopt Quantitative Processing Guidelines.

A. The Adoption of Quantitative Processing Guidelines Is Unnecessary, Since Broadcasters Are Making Substantial Efforts to Comply With the Act.

In its Notice, the Commission states that the majority of license renewal applications it has reviewed thus far under the Children's Television Act have demonstrated "adequate efforts to meet the programming needs of children."<sup>8/</sup> And while expressing concern about the amount of children's programming which stations are presenting, the Notice acknowledges that "practically all" applications filed during the last renewal cycle have identified at least some regularly scheduled, standard-length programming for children which was broadcast by the stations in question.<sup>9/</sup>

This would not appear to be a record warranting new regulatory initiatives scarcely a year and a half after the programming obligations of the Act became effective.<sup>10/</sup> While the Commission states its belief that the level of performance demonstrated by television

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<sup>8/</sup> Notice at 1.

<sup>9/</sup> Notice at 3-4.

<sup>10/</sup> See, Report and Order in MM Docket Nos. 90-570 and 83-670, 6 FCC Rcd 2111, 2118 (1991) (hereafter "Report and Order").

licensees thus far "is [not], in the long term consistent with the objectives of the [Children's Television Act],"<sup>11/</sup> it at the same time acknowledges that program suppliers may not yet have made available significant amounts of educational children's programming "because the obligation to air it and the demand generated by that obligation are relatively new."<sup>12/</sup> In fact, such a supply shortage of educational and informational children's programming has to date been a reality.

There are now clear indications, however, of the beginnings of a strong industry response to the Children's Television Act. In light of these developments, CBS respectfully submits that there is presently insufficient reason to adopt quantitative programming standards -- a step which the Commission has traditionally been reluctant

educational and informational needs of children.

Beginning in September 1993, the CBS Television Network will present BEAKMAN'S WORLD, a children's science program which won wide acclaim during its first year in syndication and on cable. In this series, eccentric scientist Beakman conducts experiments and answers questions, all with the aid of animation and video magic designed to appeal to children. According to one critic, BEAKMAN'S WORLD "stands head and shoulders above virtually everything else on television for children, in its combination of high seriousness and low silliness."<sup>13/</sup>

of science and technology, with each episode having as its core the illustration of a basic mechanical principle. CITYKIDS, a live action series focusing on various aspects of growing up, will explore from a young person's perspective such issues as the environment, racism, relationships and employment.

In September 1992, the NBC Television Network introduced a new informational series titled NAME YOUR ADVENTURE. in which three teenagers are selected each week

and geography as they try to solve the mystery of  
San Diego's whereabouts.

In addition to these new efforts, the networks  
will offer other programs which clearly meet the  
requirements of the Act. The 1993-94 CBS Television  
Network schedule will reintroduce CBS STORYBREAK, a series  
designed to encourage children to read through the

of programming the Children's Television Act was meant to encourage.<sup>18/</sup>

Network broadcasts, of course, are only one source of children's programming on commercial television. First-run syndication also plays a major role in the supply of children's programs, particularly for those stations which cannot afford to consider local production.

Until recently there have been relatively few educational and informational children's programs available on a syndicated basis. This supply shortage is attributable, we believe, to the relatively short time that has passed since the Children's Television Act became law. The process of financing, developing and marketing a first-run syndicated program is a long one, often requiring a year or two from initial concept until a program is ready for stations to air. In this regard, the annual NATPE<sup>19/</sup> conference in January is of pivotal importance in attracting the critical mass of station clearances necessary to make a first-run syndicated

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<sup>18/</sup> Id.

<sup>19/</sup> National Association of Television Program Executives.

program viable; since the Children's Television Act only became law in October 1990, there was virtually no time for demand for educational children's programs to develop and translate itself into program proposals before the 1991 NATPE convention. It is thus not at all surprising that many syndicated children's programs of the kind contemplated by the Act are only now coming on the market.

Such programs are, however, becoming more available. In addition to new productions, a number of programs previously seen only on cable television or on public stations are now being sold to over-the-air broadcasters. Some examples of syndicated programs which have gone on the air since the adoption of the Act, or are now being marketed for the fall season, are listed below.

- NICK NEWS, a weekly half hour news magazine for children hosted by Emmy Award winning journalist Linda Ellerbee. In its first year of production, NICK NEWS won an ACE Award for Best News Program, a Peabody award, a DuPont Award and two Parent's Choice Awards.

- ADVENTURES IN WONDERLAND, an Emmy Award winning program based on the beloved novel by Lewis Carroll, in which a contemporary Alice and the characters of

Wonderland entertain children with their antics while teaching them a wide range of language skills and vocabulary through song and story. The National Education Association has called the series "wholeheartedly entertaining as well as educationally sound."<sup>20/</sup>

• NOT JUST NEWS, a weekly half hour news program for children produced by WTTG-TV, Washington, and syndicated by Twentieth Century Fox. The National Education Association has stated that "the informational value of [NOT JUST NEWS] as well as interactive segments will enable teachers to enhance learning opportunities for students."<sup>21/</sup>

• REAL NEWS FOR KIDS, a weekly news program for children produced by Turner Broadcasting, is currently seen on more than 200 television stations and has covered such events as the 1992 presidential election, events in Somalia and Bosnia, and the aftermath of the Los Angeles riots. Peggy Charren, the founder of Action for

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<sup>20/</sup> J. Michaelson, "Hip 'Wonderland' Aims to Educate," Los Angeles Times, March 25, 1993, p.F13.

<sup>21/</sup> Letter dated August 26, 1991 from Lyle Hamilton, Manager Broadcast Services, National Education Association, to Thomas R. Herwitz, Vice President and General Manager, WTTG-TV.

Children's Television, has called REAL NEWS FOR KIDS "the kind of television show that the Children's Television Act was designed to encourage."

- BILL NYE THE SCIENCE GUY, a new children's science program distributed by Buena Vista Television. Targeted to fourth and fifth grade students, the program will explain such topics as the water cycle, the solar system, air pressure, weather, ecosystems, geology and volcanoes, oceanography, recycling and conservation.

- SCRATCH, a weekly news magazine program for

teens, produced by WMMT-TV in Sacramento

- WAVELENGTH, a program in which groups of teenagers

~~discuss issues relevant to their lives~~

committees and businesses. Curriculum material for specific programs is created for classroom use.

- THE EDISON TWINS, a program in which two teenagers use their knowledge of scientific principles to solve the mysteries featured by the program's storylines. The subjects to be treated include astronomy, laws of motions, magnetism, solar eclipses, electrical circuits and the transmission of sound through laser light.

Based only on the network and syndicated programs that have become available since the Children's Television Act went into effect, CBS questions the Commission's premise that there has been "little change" in available programming that addresses the educational and informational needs of the child audience. To the contrary, there can be little doubt that the industry is responding to the Act's requirements with programs which were not seen on broadcast commercial television three years ago.

Moreover, there is every reason to expect a further increase in the supply of educational and informational children's programs as the marketplace continues to adjust in response to the Act and the

expressed concerns of Congress and the Commission. In recent months, for example, CBS has been approached with a variety of development ideas for syndicated children's educational programs. And the prestigious Children's Television Workshop, predominantly a non-commercial producer in the past, has just indicated that it is exploring opportunities to develop educational and informational children's programs for the domestic syndication market.<sup>22/</sup> We believe that this proceeding, as well as the recent hearings before the House Telecommunications Subcommittee, will serve further to stimulate a process of demand and supply for educational children's programs which is already well under way.

Undoubtedly, the purposes of the Children's Television Act have not yet been perfectly attained by all television stations. It is simply too early, however, to conclude that the objectives of the Act will not be achieved in the absence of additional regulatory steps by the Commission. Therefore we believe it would at the

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<sup>22/</sup> "Stock Rises for FCC-friendly Kids Fare," Broadcasting and Cable, May 3, 1993, p.34. In so stating, Franklin Getchell, senior vice president of Children's Television Workshop, noted that "[i]n the past there wasn't a sense of a lot of interest in shows like ours from commercial broadcasters. But clearly there's been a turn of events." Id.

least be premature for the Commission now to adopt quantitative processing guidelines for license renewal purposes, particularly when such standards would appear to go beyond what Congress envisioned in adopting the legislation.

B. The Adoption of Processing Guidelines Would Be